

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT**

LEO McKAYE, #180515,

Plaintiff(s),

CASE NO.: 2:05-CV-73968-DT

vs.

HON. GERALD E. ROSEN
MAG. JUDGE WALLACE CAPEL, JR.

SHERRY L. BURT,

Defendant.

**ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL**

This matter is before the Court on Plaintiff's Motion For Appointment Of Counsel, filed on August 2, 2006. The Prisoner, an inmate at the Ionia Maximum Correctional Facility brings this action under 42 U.S.C. § 1983. The Plaintiff alleges deliberate indifference to his health and safety while he was housed at the Standish Maximum Correctional Facility. In his complaint, he alleges that the drinking water in his cell had a visible tan and beige color and a pungent odor.

In support of the request for counsel, the Plaintiff states that he has a severe illness and that he has blood hemorrhages in his eyes which renders him partially blind, and at other times to be completely blind. As a result, he is unable to proceed with his case and is not able to respond to the defenses in a meaningful manner.

Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases only after a motion to dismiss or for summary judgment has been decided. While the Court is sympathetic with the Plaintiff's plight, it appears that he does have the ability to file pleadings and papers in his case. Therefore, at this time the motion shall not be granted.

IT IS HEREBY ORDERED that Plaintiff's motion for appointment of counsel is hereby **DENIED WITHOUT PREJUDICE** pending a review of the dispositive motions in this matter.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within ten days after being served with a copy thereof, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: August 7, 2006

s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on **August 7, 2006**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Cori E. Barkman, Esq., and I hereby certify that I have mailed by United States Postal service the paper to the following non-ECF participants: Leo McKaye, Ionia Maximum Correctional Facility, 1576 W. Bluewater Hwy., Ionia, MI 48846

s/James P. Peltier
James P. Peltier
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U.S. District Court
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